

UNITED STATES DISTRICT COURT
for the

Eastern District of North Carolina

FILED IN OPEN COURT

ON 3/29/2012

Julie A. Richards, Clerk
US District Court
Eastern District of NC

United States of America

v.

Marshal Earl Battle

)

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Case No: 5:03-CR-359-1BO

)

USM No: 24218-056

Date of Original Judgment: June 24, 2004

)

Date of Previous Amended Judgment: _____

)

Thomas P. McNamara

(Use Date of Last Amended Judgment if Any)

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____

The defendant was sentenced, pursuant to a Motion for Substantial Assistance, to a mandatory minimum term of imprisonment which was not mitigated by application of 18 U.S.C. § 3553(e). Therefore, while the amendment is applicable to the defendant, it does not have the effect of lowering the defendant's guideline range because the defendant was sentenced to the mandatory minimum term of imprisonment.

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

(Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment(s) dated June 24, 2004 shall remain in effect. **IT IS SO ORDERED.**

Order Date:

3-29-12



Judge's signature

Effective Date:

(if different from order date)

Terrence W. Boyle, U.S. District Judge

Printed name and title